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EX-CIA CHIEF NEED NOT TESTIFY ON TAPE, JUDGE RULES  
BY TOM SEPPY  
WASHINGTON

Former CIA Director Richard M. Helms does not have to submit to questioning on videotape for the CBS network's defense in a lawsuit brought by retired Gen. William C. Westmoreland, a federal judge ruled Friday.

U.S. District Judge Thomas Penfield Jackson also said the CIA does not have to produce a report done by its Office of the Inspector General and Review Board during their investigation of alleged intelligence failures in Vietnam in 1960s, which Westmoreland and CBS both sought.

Jackson said, too, that the spy agency does not have to give CBS a "draft history" of Helms' tenure as CIA director from June 1966 through February 1977.

Westmoreland, former commander of U.S. forces in Vietnam, has filed a \$120 million libel suit in a federal court in New York City against CBS for its documentary, "The Uncounted Enemy: A Vietnam Deception," which was telecast on Jan. 23, 1982.

In the 90-minute documentary, CBS News said U.S. military leaders purposely underestimated enemy troop strength in Vietnam to present a rosier picture of the war. Westmoreland called the program "vicious, false and contemptible."

In his rulings, which dealt with the seeking of information related to the case, Jackson said Helms does not object to being interrogated by CBS' lawyers. In fact, he said, Helms was cooperative in scheduling his deposition, in producing the documents asked of him and in permitting his testimony to be taken by a stenographer.

Jackson said Helms departed only when CBS wanted to videotape him giving his testimony.

CBS said it needs the videotape because Helms is 71 years old, resides beyond the subpoena power of the New York court, has extensive travel plans, declares he will not promise to appear at trial voluntarily, although he currently expects to do so.

Helms said he did not want his deposition videotaped because he is apprehensive that CBS wants to "accumulate potentially attractive broadcast material" for its archives. The network said it has no current plans to broadcast the tape, but it would not unequivocally promise it will never do so.

Judge Jackson said, "The court concludes that Ambassador Helms' appearance for and declared willingness to commit his testimony to stenographic transcription was sufficient to satisfy the requirements of the routine ... deposition subpoena ..."

Jackson also said previous judicial decisions have held that a court should deny a discovery request when its purpose is to gather information for use in proceedings other than the pending suit.

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